

This environmental regulatory alert is provided for your information from the Department of Commerce Environmental Manager. This alert provides information about a change in environmental law or regulation that may impact your operations.

ENVIRONMENTAL ALERT #2005-0003 Mercury-Containing Equipment Final Rule

General: On August 5, 2005, the U.S. EPA issued a final rule adding mercury-containing equipment (MCE) to the Federal list of universal wastes regulated by the Resource Conservation and Recovery Act (RCRA). This rule affects persons who generate, transport, treat, recycle, or dispose MCE unless those persons are households or RCRA defined Conditionally Exempt Small Quantity hazardous waste generators. This rule is effective, August 5, 2005.

Previous regulations required persons to determine if the MCE was a hazardous waste. In most cases MCE is considered a hazardous waste due to its toxicity characteristics. Unfortunately, not all generators managed MCE waste as hazardous waste. The EPA concluded that regulating MCE as a universal waste would lead to improved management of the MCE waste and facilitate compliance with hazardous waste requirements.

MCE is defined as an item that contains elemental mercury that is integral to the item's function. This definition does not include mercury waste generated as a by-product of manufacturing or treatment. Some common items include thermostats, barometers, manometers, flow meters, pressure relief gauges, water temperature gauges, gas safety relays, and mercury switches. Batteries and lamps that contain elemental mercury will continue to be regulated separately under the universal waste rules.

Important Note: This new rule is considered less stringent. States are not required to adopt less stringent regulations. Please check your applicable state regulations prior to implementing this new rule change. Also be aware that there may be an impact on shipping MCE wastes across state boundaries. If MCE waste is shipped to or through a state that does not adopt this new change, a hazardous waste manifest will be required for transport in that state.

A copy of this announcement, along with additional information, was published in the Federal Register and is available for viewing and downloading at <http://www.epa.gov/edocket> or <http://www.ofee.gov/mercury.pdf>.

Additional Information: If you have any questions or concerns about this alert, please contact the Department Environmental Manager, Peter Wixted, at (202) 482-3444, or via e-mail pwixted@doc.gov.